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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION

SARI ISSA NATOUR,	)	No. C 07-3764 JSW
	)	
Plaintiff,	)	FEDERAL DEFENDANT'S CASE
	)	MANAGEMENT CONFERENCE
v.	)	STATEMENT
	)	
U.S. DEPARTMENT OF AGRICULTURE,	)	Date: February 29, 2008
	)	Time: 1:30 p.m.
Defendant.	)	Ctrm: 2, 17 <sup>th</sup> Floor
	)	

Federal Defendant submits this Case Management Statement.<sup>1</sup>

1. Jurisdiction and Service: Defendant U.S. Department of Agriculture ("USDA") has filed a motion to dismiss pursuant to Federal Rules of Civil Procedure 12(b)(4), 12(b)(5) and 12(b)(6) on the grounds that: (1) Plaintiff Sari Issa Natour failed to serve the Government within 120 days of filing his Complaint as Federal Rule of Civil Procedure 4(m) requires; and (2) the United

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<sup>1</sup> Federal Defendant's counsel faxed Plaintiff's counsel, Orestes Cross, a draft joint case management conference statement on February 12, 2008, requesting his input so that the parties could be finalize it and file it with the Court by February 20, 2008. Federal Defendant's counsel also left telephone messages for Mr. Cross on February 19 and 20 asking whether he had any proposed revisions to the draft joint case management conference statement. To date, Mr. Cross has not yet responded. Accordingly, the parties are unable to file a joint case management conference statement at this time.

1 States, not the USDA, is the only proper defendant under the Food Stamp Act (7 U.S.C. §2023)  
2 in this action appealing the USDA's final agency decision disqualifying Plaintiff from  
3 participating in the Food Stamp Program.

4 2. Facts: Plaintiff contests the USDA's decision disqualifying his grocery store from  
5 participating in the Food Stamp Program, and requests that he be reauthorized to participate in  
6 the Food Stamp Program. The USDA contends that it properly disqualified Plaintiff from  
7 participating in the Food Stamp Program on the grounds that during the period from November  
8 2006 through January 2007: (1) Plaintiff's store generated Electronic Benefit Transfer  
9 transactions that establish a pattern of unusual, irregular, and/or inexplicable Food Stamp  
10 Program activity for the type and size of his store; and (2) Plaintiff's store was involved in  
11 exchanging Food Stamp benefits for consideration other than eligible food.

12 3. Legal Issues: The primary legal issues that the parties dispute are:

- 13 a. Whether Plaintiff's Complaint should be dismissed for failure to serve the Government
- 14 within 120 days of filing his Complaint as Federal Rule of Civil Procedure 4(m) requires;
- 15 b. Whether the USDA properly disqualified Plaintiff from participating in the Food Stamp
- 16 Program.
- 17 c. The remedies available to Plaintiff if he proves his claim.

18 4. Motions: The USDA recently filed a motion to dismiss, which is set for hearing on April 4,  
19 2008. In the event this motion is not granted, the USDA intends to file a dispositive motion in  
20 order to resolve the merits of this case.

21 5. Amendment of Pleadings: The USDA does not anticipate any parties, claims, or defenses to  
22 be added or dismissed.

23 6. Evidence Preservation: The USDA has preserved all documentary and electronic evidence  
24 related to the Food Stamp Program transactions in Plaintiff's store during the period from  
25 November 2006 through January 2007, and the disqualification of Plaintiff's store from  
26 participation in the Food Stamp Program.

27 7. Disclosures: The USDA will provide its initial disclosures prior to the February 29, 2008  
28 Case Management Conference.

1 8: Discovery: No discovery has been taken to date. The USDA anticipates only limited  
2 discovery as this is a Food Stamp Act case that will be decided primarily based on an  
3 administrative record. Thus, the USDA proposes a discovery cutoff date of June 27, 2008.

4 9. Class Actions: Not applicable.

5 10. Related Cases: The USDA is not aware of any related cases or proceedings pending before  
6 another judge of this Court, or an administrative body at this time.

7 11. Relief: Plaintiff seeks reauthorization to participate in the Food Stamp Program. The USDA  
8 seeks dismissal of Plaintiff's claims.

9 12. Settlement and ADR: Pursuant to ADR L.R. 3-5, the USDA and its counsel hereby certify  
10 that they have: (1) read the handbook entitled "Dispute Resolution Procedures in the Northern  
11 District of California"; (2) discussed the available dispute resolution options provided by the  
12 Court and private entities; and (3) considered whether this case might benefit from any of them.  
13 The USDA, however, does not believe formal ADR would be fruitful until after the USDA's  
14 pending motion to dismiss and any subsequent dispositive motions are heard. Additionally,  
15 settlement of this case is highly unlikely given that the relief Plaintiff seeks is reauthorization to  
16 participate in the Food Stamp Program. Accordingly, the USDA does not request any formal  
17 ADR at this time.

18 13. Consent to Magistrate Judge for All Purposes: The USDA does not consent to assignment to  
19 a magistrate judge for all further proceedings, including trial and entry of judgment.

20 14. Other References: This case is not suitable for reference to binding arbitration, a special  
21 master, or the Judicial Panel on Multidistrict Litigation.

22 15. Narrowing of Issues: The issues in this case will be narrowed and/or eliminated by the  
23 pending motion to dismiss and/or subsequent dispositive motions.

24 16. Expedited Schedule: This case can be handled on the expedited schedule proposed herein.

25 17. Scheduling: If this case is not dismissed, the USDA proposes that dispositive motions be filed  
26 by August 1, 2008, and that the hearing be set for September 5, 2008.

27 18. Trial: Under the Food Stamp Act, any trial of this case will be a court trial, which the USDA  
28 estimates will take two court days.

1 19. Disclosure of Non-party Interested Entities or Persons: The known persons or entities that  
2 have either a financial interest in the subject matter of this action or a party to this action, or any  
3 other interest that could be substantially affected by the outcome of the proceeding are: Plaintiff  
4 and the USDA.

5 20. Other Matters: None at this time.  
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7 Dated: February 20, 2008

JOSEPH P. RUSSONIELLO  
United States Attorney

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